

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KHALED OMAR
PST FACILITY ID NO. 66381;
ENFORCEMENT ID NO. 13206(2)**

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**BEFORE THE

TEXAS NATURAL RESOURCE

CONSERVATION COMMISSION**

AGREED ORDER DOCKET NO. 1998-1525-PST-E

I. JURISDICTION AND STIPULATIONS

At its **JUL 11 2001** agenda, the Texas Natural Resource Conservation Commission ("Commission" or "TNRCC") considered this agreement of the parties, resolving an enforcement action regarding Khaled Omar ("Mr. Omar") under the authority of TEX. WATER CODE chs. 7 and 26; TEX. HEALTH & SAFETY CODE ch. 382; and 30 TEX. ADMIN. CODE ch. 334. The Executive Director of the TNRCC, represented by the Litigation Division, and Mr. Omar, appear before the Commission and together stipulate that:

1. At the time of the violations, Mr. Omar owned three underground storage tanks ("USTs") and a gasoline dispensing station known as Future Food Mart at 4225 Miller Avenue in Fort Worth, Tarrant County, Texas (the "Station").
2. Mr. Omar's USTs contained a regulated substance as defined in the rules of the Commission and are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Mr. Omar agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Omar are subject to the Commission's jurisdiction.
4. Mr. Omar received notice of the violations alleged in Section II ("Allegations") on or about April 3, 1997 and May 28, 1998.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Omar of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand seven hundred fifty dollars (\$3,750.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Omar have paid three hundred eighteen dollars (\$318.00) of the administrative penalty. The remaining amount of three thousand four hundred thirty-two dollars (\$3,432.00) of the administrative penalty shall be payable in eleven monthly payments of three hundred twelve dollars (\$312.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If Mr. Omar fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Mr. Omar to timely and satisfactorily comply with all the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TNRCC and Mr. Omar have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on or about May 15, 1999 Mr. Omar sold the USTs subject to this enforcement action.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Omar have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order is not intended to become a part of Mr. Omar's compliance history.
12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Omar, as owner of the USTs, is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing to securely anchor shutoff valves to the base of the dispensers.
2. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to amend, update, or change UST registration information with the Commission within thirty days from the date of an ownership change.

III. DENIALS

Mr. Omar generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TNRCC that Mr. Omar pay administrative penalties as set forth in Section I, Paragraph 6 above. The imposition of these administrative penalties and Mr. Omar's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Natural Resource Conservation Commission" and shall be sent with the notation "Re: Khaled Omar ; Docket No. 1998-1525-PST-E.; Enforcement ID No. 13206(2)" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Natural Resource Conservation Commission
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Omar.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Omar in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

Khaled Omar

Docket No. 1998-1525-PST-E

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4. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

ATTENTION: Victor Simonicks.

Khaled Omar
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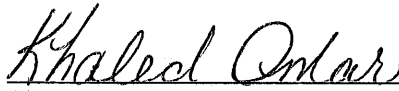
SIGNATURE PAGE

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

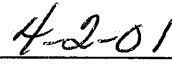


For the Commission

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.



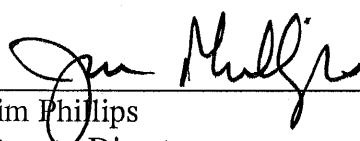
Signature



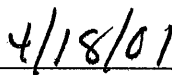
Date

Name (Printed or typed)
Authorized representative of
Khaled Omar

Title



Jim Phillips
Deputy Director
Office of Legal Services
Texas Natural Resource Conservation Commission



Date

Instructions: Send the original signed Signature Page and all pages of this Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

July 20, 2001

CERTIFIED MAIL

Khaled Omar
2223 Reverchon Drive
Arlington, Texas 76017

RE: Khaled Omar; PST Facility ID No. 66381
TNRCC Docket No. 1998-1525-PST-E; Enforcement ID No. 13206(2)
Agreed Order assessing administrative penalties

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Enforcement Coordinator or the Staff Attorney. If there are questions pertaining to the mailing of the order, then please contact Julie Albrecht of the Texas Natural Resource Conservation Commission's Office of the Chief Clerk (MC 105) at (512) 239-3141.

Sincerely,

A handwritten signature in black ink, appearing to read "LaDonna Castañuela".

LaDonna Castañuela
Chief Clerk

LDC/jla

Enclosure

cc: Sam Barrett, Regional Contact, TNRCC Region 4
Victor Simonds, Staff Attorney, TNRCC Litigation Division (MC 175)
Randy Norwood, Enforcement Coordinator, TNRCC Enforcement Division (MC 134)
John Dahlem, City of Fort Worth Environmental Management Department, 5000 MLK
Jr. Freeway, Fort Worth, Texas 76119-4166